

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

	)	
WORLDS, INC.,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	Civil Action No. 1:12-CV-10576 (DJC)
ACTIVISION BLIZZARD, INC.,	)	
BLIZZARD ENTERTAINMENT, INC. and	)	JURY TRIAL DEMANDED
ACTIVISION PUBLISHING, INC.,	)	
	)	
Defendants.	)	

**JOINT STATUS REPORT**

Pursuant to this Court’s March 26, 2020 Order (Dkt. 253), Plaintiff Worlds, Inc. (“Worlds”) and Defendants Activision Blizzard, Inc., Blizzard Entertainment, Inc., and Activision Publishing, Inc. (collectively, “Activision”) jointly submit the following status report outlining what remains in the case for the Court to resolve and proposing a schedule for doing so.

**I. PRIOR LITIGATION STATUS**

This case was filed by Worlds against Activision on March 30, 2012. Dkt. 1. Prior to the issuance of the stay pending *inter partes* review of the patents-in-suit, Worlds asserted 40 total claims across five patents against Activision. The Court issued its claim construction order on June 26, 2015, addressing all patents-in-suit. Dkt. 153. The parties subsequently exchanged updated infringement and invalidity contentions. Dkts. 160, 164. The Court issued a Scheduling Order on September 16, 2015, adopting the parties’ prior proposed Joint Pretrial Schedule, and scheduled an Initial Pretrial Conference for September 29, 2016. Dkts. 180-182. As a result of *inter partes* review, 17 asserted claims were invalidated, leaving 23 of the 40 claims asserted

pre-stay. Fact discovery was ongoing when *inter partes* review was initiated and this district court litigation was stayed. The parties made substantial productions of documents and materials, including source code pursuant to the protective order. In addition, the parties had conducted a few depositions; however, additional fact discovery still needs to be completed. The parties have yet to serve expert reports or complete expert discovery.

## II. REMAINING ISSUES FOR THE COURT TO RESOLVE

The following items remain for the Court to resolve:

1. Activision filed a motion for summary judgment under 35 U.S.C. § 101 (Dkt. 174), and that motion was taken under advisement by the Court prior to the stay of proceedings (Dkt. 194). As discussed below, the parties propose a schedule for supplementing the briefing on Activision's pending § 101 motion in view of intervening Federal Circuit law.

2. Remaining disputed issues include determinations of whether the patents-in-suit are infringed; whether the patents-in-suit are invalid; and, if any claims of the patents-in-suit are infringed and not invalid, the amount of damages to be awarded. Therefore, the parties respectfully ask that the Court establish a case schedule, including deadlines for conducting fact discovery, deadlines for case narrowing, exchange of expert reports, conducting expert discovery, filing of dispositive and *Daubert* motions, and holding a pretrial conference.

3. In addition, Activision submits that a further issue that needs to be addressed—and should be addressed before discovery is reopened—is a schedule for the parties to meet and confer as to the proper scope of estoppel in view of the IPR proceedings (Dkt. 242 at 7), and, if needed, a briefing and hearing schedule to resolve any disputes.<sup>1</sup>

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<sup>1</sup> In mid-March, Activision hired Wilmer Cutler Pickering Hale and Dorr LLP (“WilmerHale”) to serve as counsel in the case going forward. WilmerHale is working to transition the case file

4. Worlds' response to ¶3: This case has been pending for over eight years, and the further postponing of fact discovery will unnecessarily delay the timely resolution of this case. Additionally, the scope of Activision's estoppel under 35 U.S.C. § 315(e)(2) is currently premature and should be treated as a dispositive motion if it remains in dispute at that time.

## II. JOINTLY PROPOSED SCHEDULE

Pursuant to the Court's Order (Dkt. 253), the Parties hereby submit their proposed pretrial schedules. The parties have met and conferred on the proposed pretrial dates.

Activision respectfully submits that discovery in this case should remain stayed pending resolution of certain threshold issues that will determine the contours of this case moving forward. Those issues are: (1) Worlds' narrowed election of asserted claims in view of the IPR proceedings and discovery and claim construction rulings prior to the stay; (2) Activision's motion for summary judgment under 35 U.S.C. § 101, which is case dispositive; and (3) the proper scope of estoppel in view of the IPR proceedings. Activision proposes the following schedule for resolving those threshold issues:

Event	Activision's Proposed Date
Worlds' Narrowed Election of Asserted Claims	May 5, 2020
Activision's Supplemental Briefing on Its Pending 35 U.S.C. § 101 Motion	May 19, 2020
Worlds' Brief on IPR Estoppel	May 19, 2020
Worlds' Opposition to Activision's Supplemental Brief on Its Pending 35 U.S.C. § 101	June 9, 2020
Activision's Responsive Brief on IPR Estoppel	June 9, 2020
Reply Brief ISO Activision's Supplemental Briefing on Its Pending 35 U.S.C. § 101 Motion	June 23, 2020
Hearing on Activision's § 101 Motion and IPR Estoppel	At the Court's convenience on or after July 15, 2020
Status Conference to Determine Further Pretrial Deadlines, as appropriate	After the Court's ruling on Activision's § 101 motion and the scope of any IPR estoppel

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from prior counsel for Activision, Ropes & Gray LLP, which will withdraw following the transition.

The parties also propose the following pretrial dates. Activision proposes the following pretrial schedule only in the alternative should the Court determine that it wishes to set a case schedule pending resolution of Activision's motion for summary judgment under 35 U.S.C. § 101 and the scope of any IPR estoppel. Where the parties do not agree on proposed pretrial dates, both parties' proposals have been included.

<b>Event</b>	<b>Worlds' Proposed Date</b>	<b>Activision's Proposed Date</b>
Reopening of Fact Discovery	April 14, 2020	After ruling on Activision's § 101 motion and the scope of any IPR estoppel (alternatively, April 14, 2020)
Worlds' Narrowed Election of Asserted Claims	May 5, 2020 (Agreed)	
Activision's supplemental briefing on its pending 35 U.S.C. § 101 motion	May 19, 2020 (Agreed)	
Worlds' Brief on IPR Estoppel	To be briefed with Dispositive Motions	May 19, 2020
Worlds' opposition to Activision's supplemental briefing on its pending 35 U.S.C. § 101 motion	June 9, 2020 (Agreed)	
Activision's Responsive Brief on IPR Estoppel	To be briefed with Dispositive Motions	June 9, 2020
Reply brief ISO Activision's supplemental briefing on its pending 35 U.S.C. § 101 motion (Limited to 5 Pages)	June 23, 2020 (Agreed)	
Hearing on Activision's § 101 Motion and IPR Estoppel	At the Court's convenience on or after July 15, 2020 (Agreed)	
Close of Fact Discovery	January 14, 2021	150 days after ruling on Activision's § 101 motion and the scope of any IPR estoppel (alternatively, January 14, 2021)
Worlds' Narrowing of Asserted Claims (Worlds: No more than 5 claims per patent; 15 claims maximum / Activision: No more than 3 claims per patent; 15 claims maximum)	January 21, 2021	7 days after the close of fact discovery (alternatively, January 21, 2021)
Activision's Narrowing of Prior	February 4, 2021	21 days after the close of fact

<b>Event</b>	<b>Worlds' Proposed Date</b>	<b>Activision's Proposed Date</b>
Art (No more than 7 prior art references per patent; 20 references maximum)		discovery (alternatively, February 4, 2021)
Opening Expert Reports	February 18, 2021	35 days after the close of fact discovery (alternatively, February 18, 2021)
Rebuttal Expert Reports	March 25, 2021	70 days after the close of fact discovery (alternatively, March 25, 2021)
Close of Expert Discovery	April 15, 2021	91 days after the close of fact discovery (alternatively, April 15, 2021)
Deadline to File Dispositive/ <i>Daubert</i> Motions	May 13, 2021	28 days after the close of expert discovery (alternatively, May 13, 2021)
Deadline for Oppositions to Dispositive/ <i>Daubert</i> Motions	June 10, 2021	56 days after the close of expert discovery (alternatively, June 10, 2021)
Deadlines for Reply Briefs ISO Dispositive/ <i>Daubert</i> Motions (Limited to 5 Pages)	June 24, 2021	70 days after the close of expert discovery (alternatively, June 24, 2021)
Hearing on Dispositive/ <i>Daubert</i> Motions	At the Court's convenience, on or after July 14, 2021	At the Court's convenience, on or after 90 days after the close of expert discovery (alternatively, at the Court's convenience on or after July 14, 2021)
Worlds' Final Election of Asserted Claims (6 claims maximum)	14 days after ruling on dispositive motions (Agreed)	
Activision's Final Election of Prior Art (12 references maximum)	28 days after ruling on dispositive motions (Agreed)	
Pretrial Conference/Trial	60 days after ruling on dispositive motions (Agreed)	

Dated: April 6, 2020

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I certify that a true copy of the above document was filed through the Court's ECF system on the above date and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

/s/ Wayne M. Helge

Wayne M. Helge